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E.O. 12958: DECL: 08/01/2017
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SUBJECT: FALLOUT FROM SUCHITOTO ARRESTS CONTINUES

Classified By: Ambassador Charles L. Glazer, Reasons 1.4 (b) and (d)

¶1. (C) Summary: GOES handling of the arrest and prosecution of fourteen individuals who participated in violent demonstrations in Suchitoto on July 2 continues to reverberate throughout the Salvadoran political landscape and to attract attention from U.S.-based NGO's. The GOES decision to prosecute the cases under a 2006 anti-terrorism law has proven highly controversial, and has left the Saca administration vulnerable to domestic and international criticism. Ambassador has discussed our concerns to the Acting Foreign Minister as well as to President Saca. End summary.

Protesters Arrested in Suchitoto

¶2. (U) On July 2, President Saca traveled to Suchitoto -- a colonial town about 30 miles outside of San Salvador which serves as a popular weekend tourist destination -- to unveil a new national policy for the decentralization of water services. Several groups, including the Association of Rural Communities for the Development of El Salvador (CRIPDES), the Women's Mediation Association (Concertacion de Mujeres), and the Union of Water Workers (SETA), positioned protesters along President Saca's intended route. Though the gathering was initially non-violent, several protesters, some of them masked, blocked roads, set fires in the streets, and threw stones at GOES vehicles, possibly to include President Saca's motorcade. Other protesters allegedly fired handguns at a National Civilian Police (PNC) helicopter. Members of the PNC riot squad (UMO in Spanish), who were positioned along President Saca's motorcade route and within the town of Suchitoto itself, fired tear gas and rubber bullets at protesters, and subsequently took numerous protesters into custody.

The Action Moves to the Courtroom

¶3. (U) Fourteen protesters were arrested and charged with various acts of disturbing the peace, conspiracy, and discharging a firearm. The fiscal (the rough equivalent of an Assistant U.S. Attorney) assigned to the case decided to charge the defendants under El Salvador's 2006 anti-terrorist law. This statute has rarely been used to date, and has never previously been invoked in such a high profile case. Under the tough provisions of the anti-terror law, the defendants could face up to fifteen years in jail if convicted.

¶4. (U) In a preliminary hearing on July 7, a Salvadoran judge found sufficient grounds to bind over thirteen of the defendants for trial, and to maintain pretrial detention for

up to three months. The related firearms charges, however, were dropped. Initial charges of interfering with a police operation filed against the fourteenth defendant were dropped, and he was subsequently released.

¶5. (U) On July 18, an Appellate Judge in San Salvador's Organized Crime court upheld provisional charges against all the defendants, but opted to release four of the defendants on bail. The remaining defendants were released on bail following a July 26 hearing. The presiding judge has not yet set a date for trial, but gives every appearance of being prepared to move forward with the case.

¶6. (U) Under Salvadoran law, the Attorney General's Office (Fiscalia) has three months from the date of the preliminary hearing to complete evidence collection and prepare for trial. By the end of this period (in this case, October 7), the Fiscalia has four options: they can ask for an additional three months of investigation; they can proceed to trial; they can ask that the Judge rule that the Organized Crime Court does not have jurisdiction in this case and move it to a regular criminal court (an option which would necessitate prosecution under a statute other than the 2006 anti-terror law); or they can drop the case entirely.

U.S. NGO's Weigh In, and the FMLN Joins the Chorus

¶7. (SBU) In the immediate aftermath of the Suchitoto arrests, numerous U.S. and international NGO's registered their concern over the GOES decision to prosecute the cases under the 2006 terrorism statute. In meetings with embassy poloffs, several NGO representatives complained that GOES actions were an unwarranted curtailment of freedom of assembly, and tried to fit the Suchitoto events into a larger pattern of backsliding on human rights alleged to be taking place under President Saca.

¶8. (U) In a development indicative of the domestic political divisiveness this case has engendered, Oscar Luna, the

newly-appointed Ombudsman for Human Rights (PDDH in Spanish), publicly stated that the violent demonstrators were not terrorists, and called upon the GOES to review the terrorism law. Representatives of the FMLN quickly joined the chorus calling on the government to revisit the statute.

Ambassador Expresses Concern

¶9. (C) Ambassador Glazer expressed concern about GOES use of the anti-terrorism statute during discussions with Acting Foreign Minister Calix on July 12 and with Salvadoran President Antonio Saca on July 20. The Ambassador urged Saca and Calix to review Salvadoran legislation with a view toward separating provisions dealing with public disturbances from the law on "terrorism."

Comment

¶10. (C) Informal conversations with GOES officials, as well as speculation in the local press, indicates that the Saca administration may well be looking for an opportunity to back down from a prosecution based on the anti-terror statute. From a purely legal perspective, the Suchitoto violence almost certainly falls within the scope of activities prohibited by the 2006 anti-terrorism statute. At the same time, a decision to continue to charge the defendants under the terrorism statute would be damaging to the GOES from a public relations perspective. Legitimate concern that political protesters will return to the old school violent methods common during the Salvadoran civil war, and further undermine public confidence in the GOES ability to maintain public order, certainly played a part in the legal

deliberations. The FMLN has demonstrated a strong propensity to seek political mileage out of the Suchitoto incident, and no doubt welcomes the opportunity to direct public attention away from the pending prosecution of former FMLN member Mario Belloso, who is charged with the premeditated assassination of two PNC officers during a July 2006 demonstration. The FMLN has also made shrewd tactical use of U.S.-based NGO's. Regardless of the merits of the cases according to current Salvadoran law, going forward under the anti-terror statute will leave the GOES vulnerable to charges of politically-motivated prosecution. The GOES will surely be charged with backpedaling on freedom of expression and human rights. End Comment.
Glazer